ESTTA Tracking number:	**ESTTA562814**
Filing date:	**10/02/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Magnolia Brewing Company, LLC		
Entity	LLC	Citizenship	California
Address	1398 Haight St. San Francisco, CA 94117 UNITED STATES		

Attorney information	Candace L. Moon The Craft Beer Attorney, APC 3914 Murphy Canyon Rd., Ste. A244 San Diego, CA 92123 UNITED STATES candace@craftbeerattorney.com Phone:866-290-5553

Registration Subject to Cancellation

Registration No	3676146	Registration date	09/01/2009
Registrant	Stevens Holtze Corporation 818 - Seventeenth Street Denver, CO 80202 UNITED STATES		

Goods/Services Subject to Cancellation

Class 043. First Use: 2004/05/01 First Use In Commerce: 2004/05/01 Cancelled goods and services in the class: restaurant, bar, and cocktail lounge services;

Grounds for Cancellation

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)

Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	85805675	Application Date	12/18/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MAGNOLIA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 1997/11/11 First Use In Commerce: 1997/11/11		

	Restaurant and Bar Services

Attachments	Magnolia Hotels Cancellation Petition.pdf(21816 bytes)

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/clm/
Name	Candace L. Moon
Date	10/02/2013

In the matter of trademark Registration No. 3,676,146

For the mark MAGNOLIA HOTELS

Date registered: September 1, 2009

MAGNOLIA BREWING COMPANY, LLC, **dba MAGNOLIA GASTROPUB & BREWERY** **Petitioner,** **v.**	**Cancellation No. _____**
STEVENS HOLTZE CORPORATION, **dba MAGNOLIA HOTELS** **Registrant.**	

PETITION TO CANCEL

Petitioner Magnolia Brewing Company, LLC is a California limited liability company with a place of business at 1398 Haight St., San Francisco, CA 94117.

To the best of Petitioner's knowledge, the name of the current owner of the above-identified registration is Stevens Holtze Corporation, dba Magnolia Hotels, whose address is 818 Seventeenth Street, Denver, CO 80202.

Petitioner believes that it will be damaged by the continued registration of the above-identified registration and hereby petitions to cancel the same on the grounds stated below:

1. Petitioner is engaged in the restaurant and bar business through its affiliated and related companies and is owner of the trademark MAGNOLIA for restaurant and bar services. Petitioner has developed substantial goodwill and value in its MAGNOLIA trademark. Petitioner filed Application Serial No. 85/805,675 on December 18, 2012 for its MAGNOLIA trademark for restaurant and bar services.

2. On February 17, 2009, Registrant filed Application Serial No. 77/672,280 for the mark MAGNOLIA HOTELS.

3. On September 1, 2009, the Patent and Trademark Office issued Registration No. 3,676,146 for the MAGNOLIA HOTELS mark for "restaurant, bar, and cocktail lounge services; providing general purpose facilities for meetings, conventions, conferences and exhibitions; providing hotel and lodging services; providing banquet and social function facilities for weddings, banquets, and other special occasions; reservation services for others, for hotel accommodations," as well as two other classes, in the name of Registrant.

CLAIM FOR RELIEF BASED ON LIKELIHOOD OF CONFUSION

4. Petitioner repeats and re-alleges each and every allegation contained in paragraphs 1-3 as if fully set forth herein.

5. Since well prior to the February 17, 2009 Application filing date for the mark MAGNOLIA HOTELS and any date of first use upon which Registrant can rely, Petitioner and its related company have used the trademark MAGNOLIA for restaurant and bar services. Accordingly, priority is not an issue in this cancellation proceeding.

6. The MAGNOLIA HOTELS mark, when used for restaurant and bar services, so resembles Petitioner's earlier used MAGNOLIA mark as to be likely to cause confusion, mistake, and/or deception within the meaning of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

7. Registrant's use and registration of the MAGNOLIA HOTELS mark is without Petitioner's permission or authorization.

8. Because Petitioner possesses prior rights in its MAGNOLIA trademark, the registration of the MAGNOLIA HOTELS mark and the presumptions that flow to Registrant

from that registration are inconsistent with Petitioner's rights in and to its MAGNOLIA mark and registration of its MAGNOLIA mark.

9. By reason of the foregoing, Registrant's continued ownership of Registration No. 3,676,146 is damaging to Petitioner.

WHEREFORE, Petitioner requests that this Petition to Cancel be sustained in its favor and Registration No. 3,676,146 for the mark MAGNOLIA HOTELS be cancelled.

Please address all correspondence to Candace L. Moon at The Craft Beer Attorney, APC, 3914 Murphy Canyon Rd. Ste. A244, San Diego, CA 92123.

Dated: October 2, 2013

MAGNOLIA BREWING COMPANY, Petitioner

/s/Candace L. Moon
Candace L. Moon, Esq.
**THE CRAFT BEER ATTORNEY,
APC**
3914 Murphy Cyn. Rd., Ste. A244
San Diego, CA 92123
(866) 290-5553
candace@craftbeerattorney.com
Counsel for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she has caused the foregoing **Petition to Cancel** to be

served upon Registrant in these proceedings by depositing a true copy of the same with the

United States Postal Service as first class mail in a sealed envelope, first-class postage prepaid,

addressed to:

Stevens Holtze Corporation, dba Magnolia Hotels
818 Seventeenth Street
Denver, CO 80202

on this 2nd day of October, 2013.

/s/Candace L. Moon
Counsel for Petitioner
MAGNOLIA BREWING
COMPANY